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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JENNIFER JIE FU

Appeal 2009-010183
Application 10/644,948
Technology Center 2100

Before JOHN A. JEFFERY, CAROLYN D. THOMAS, and
DENISE M. POTHIER, *Administrative Patent Judges*.

POTHIER, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1-25. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

STATEMENT OF THE CASE

Appellant's invention relates to a method for displaying a communication network on a graphical user interface (GUI) as network element icons having properties associated with network elements. *See*

generally Spec. ¶¶ 0013-14. Claim 1 is reproduced below with the key disputed limitations emphasized:

> 1. A method for enabling a user to configure a communication network in a graphical user interface (GUI) display, comprising:
>
> configuring at least a portion of said communication network in said GUI display, including configuring a plurality of network element icons representing a plurality of network elements and logical connections among said plurality of network elements, including:
>
> *selecting a first network element icon of said plurality of network element icons for configuring a first network element of said plurality of network elements*, said first network element represented by said first network element icon,
>
> ascertaining a first set of properties associated with said first network element, said first set of properties being displayed in said GUI display and representing properties available for said first network element in said communication network,
>
> *associating a subset of said first set of properties with said first network element icon, thereby causing said subset of said first set of properties to also be associated with said first network element,* said associating a subset of said first set of properties performed by said user, and
>
> *displaying at least one visual indicator in said GUI display*, said at least one visual indicator being displayed in a visually connected manner with said first network element icon, *said at least one visual indicator visually indicating in said GUI display that said subset of said first set of properties is being associated with said first network element in said communication network.*

The Examiner relies on the following as evidence of unpatentability:

Patterson	US 2002/0052941 A1	May 2, 2002

THE REJECTIONS

1. The Examiner rejected claims 13-25 under 35 U.S.C. § 112, second paragraph, as being indefinite. Ans. 3.

2. The Examiner rejected claims 1-25 under 35 U.S.C. § 102(b) as anticipated by Patterson. Ans. 4-9.[1]

THE INDEFINITENESS REJECTION

Regarding representative independent claim 13, the Examiner finds that the phrase, "said plurality of network elements" in line 4, is indefinite. Appellant has not presented any arguments[2] for this rejection and has omitted this rejection from the Grounds of Rejection to Be Reviewed section of the Appeal Brief. *See* App. Br. 7-11; Reply Br. 2-4. We thus summarily sustain the rejection of independent claim 13 and dependent claims 14-25 for similar reasons. *See, e.g.,* Manual of Patent Examining Procedure (MPEP) § 1205.02, 8th ed., Rev. 8, July 2010 ("If a ground of rejection stated by the examiner is not addressed in the appellant's brief, that ground of rejection will be summarily sustained by the Board.").

THE ANTICIPATION REJECTION

Regarding representative independent claim 1, the Examiner finds that Patterson discloses all the recited limitations. Ans. 4-5. Specifically, the

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[1] Throughout this opinion, we refer to: (1) the Appeal Brief filed December 1, 2008; (2) the Examiner's Answer mailed February 6, 2009; and (3) the Reply Brief filed April 6, 2009.

[2] Although the entered After-Final amendment changes "said" to – a – in line 3, no corresponding change was made to line 4. *See* page 6 of the After-Final Amendment filed December 10, 2008.

Examiner cites to Patterson's: (1) element icon 324C, paragraphs 0053 and 0188, and Figures 3A and 4A to disclose selecting a first network element icon for configuring a first network element; (2) paragraphs 0238-242 and Figure 4A to disclose associating a subset of the first set of properties with the first network element icon; and (3) label "Server1" for element icon 324C and paragraphs 0235 and 0245 to disclose displaying a visual indicator, the visual indicator indicating in the GUI display that the subset is being associated with the first network element.

Appellant argues that Patterson's node status display does not disclose configuring a first network element. App. Br. 9. Appellant further asserts that neither Patterson's node status display nor displaying a name within a server icon is a visual indicator indicating in the GUI display that the subset of the first set of properties is being associated with the first network element. App. Br. 9; Reply Br. 3-4. Appellant also contends that neither Patterson's displayed logical elements of a networked computer system nor the discussion of creating or modifying server parameters maps to the recited associating a subset of properties with the first network element icon to cause the subset of the first set of properties to also be associated with the first network element. App. Br. 10; Reply Br. 2-3.

ISSUES

Under § 102, has the Examiner erred in rejecting claim 1 by finding that Patterson discloses:

(1) selecting a first network element icon of the network element icons for configuring a first network element of the network elements?

(2) associating a subset of the first set of properties with the first

network element icon, thereby causing the subset to also be associated with the first network element?

(3) displaying a visual indicator, the visual indicator visually indicating in the GUI display that the subset of the first set of properties is being associated with the first network element?

FINDINGS OF FACT (FF)

1. We adopt the Examiner's findings as our own. Ans. 4-5, 10-14.

2. Patterson discloses creating a graphical representation 314 of a computer system's (e.g., an IDC or server farm) logical configuration by dragging icons (e.g., 320, 322, 324) that represent elements or nodes of the computer system from a palette 306 into a workspace (or "MapView") 312. Patterson, ¶¶ 0093, 0189-194; Figs. 3A-B.

3. Patterson includes a server tier configuration dialog window 400 for configuring parameter values for each node of a server farm that is created by dragging and dropping the icons into a workspace. The window includes a name value (e.g., "Server1") box 402, a Type pull-down menu 404, and a Server Count field 418. The user can create or modify the parameters values using the boxes and menus to configure the parameter values. Patterson, ¶¶ 0233-235, 0238-239, 245-46; Fig. 4A.

4. Patterson explains: (a) the name value can be change; (b) the image may change to match the machine's architecture; and (c) the number of servers in a tiered server may be reflected in the form of a numeral 344 on the tier's icon (e.g., server icon 324E has the number of server "9" displayed). A name change is displayed when the user closes the

configuration dialog. Patterson, ¶¶ 0217, 0234-235, 0238-239, 245-46; Figs. 3A, 3C, 4A.

ANALYSIS

Based on the record before us, we find no error in the Examiner's anticipation rejection of representative independent claim 1 which calls for selecting a first network element icon of the network element icons for configuring a first network element. As the Examiner explains (*see* FF 1 (referring to Ans. 12-13)), Patterson's node status display and its use of colors form no part of the presented rejection. *See* FF 1 (referring to Ans. 4). Rather, the Examiner discusses server icon 324C to illustrate a first selected network element icon that represents a first network element (e.g., a server). *See* FF 1 (referring to Ans. 4, 10). Also, Patterson discloses creating a graphical representation of a computer system by dragging or selecting icons representing different network elements from a palette. *See* FF 2. Patterson therefore discloses selecting a first network element icon (e.g., 324) from the network elements' icons (e.g., icons shown in Figure 3B) to create the system's representation shown in Figure 3A.

Additionally, Patterson discloses using a window (e.g., 400) to configure each network element's (e.g., a server) parameters represented by an icon (e.g., 324C). *See* FF 3. To get to this configuration window for the server, the network element represented by the icon must have been selected for configuration. *See id.* Thus, Patterson further discloses selecting a first network element icon (e.g., 324C) for configuring a first network element (e.g., a server) as recited in claim 1.

Moreover, Patterson discloses that an entry is made using the server tier configuration dialog window, when configuring a node's parameters or a property. *See* FF 3-4. The Examiner provides an example of such a configuration (*see* FF 1 (referring to Ans. 4, 11-13)) when describing icon 324C and its label, "Server1." This label or name must have been created by entering "Server1" in name value box 402. *See id.* Additionally, Patterson teaches obtaining other parameters, including the machine type (e.g. by selecting from the type pull-down menu 404) and the number of servers (e.g., by entering a number in server count field 418). For example, the server icon 324E is shown as a multi-tiered server with the number of servers "9," which must have been entered using the server count field. *See* FF 3-4. In both of these scenarios, the icons are displayed with some (e.g., a name, the number of servers) but not all of the network element's parameters or properties entered and selected during configuration.

Thus, Patterson must create an association between a subset of properties (e.g., name , number of servers) and the icon at some point before displaying the icons and the subset together as shown in Figure 3A, such as before the configuration dialog closes. *See* FF 3-4. This association with the network element icon (e.g., 324C or 324E) also creates a relationship with its network element because each icon represents a network element. *See* FF 2-4. Patterson therefore discloses associating a subset of the first properties with the first network element icon and the first network element as recited in claim 1. Also, as stated above, Patterson discloses such entries or changes within the configuration window are displayed and are visual indicators indicating both through text (e.g., label "Server1," server number "9") and an image (*see* FF 4) in the GUI the subset of properties that are

associated with a network element (e.g., a server) as recited in claim 1. *See* FF 1 (referring to Ans. 12)).

For the foregoing reasons, Appellant has not persuaded us of error in the anticipation rejection of: (1) independent claim 1; (2) claim 13 which is commensurate in scope and relies on the arguments for claim 1 (*see* App. Br. 10); and (3) claims 2-12 and 14-25 not separately argued with particularity (App. Br. 8-11; Reply Br. 2-4).

CONCLUSION

The Examiner did not err in rejecting claims 13-25 under § 112, second paragraph or claims 1-25 under § 102.

DECISION

The Examiner's decision rejecting claims 1-25 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

msc